

T H E C A S E

Of several Patentees and their Assignees, who are Intituled to
several Annual Sums, payable out of the Hereditary Excise.

Note, That before the said Letters Patents were Granted, their several Accounts were exactly Stated with the greatest scrutiny, and allowed by Sir John Ernle, then Chancellor of the Exchequer, and Auditor Aldworth, the proper Officers for that purpose; and the said Patents were Printed, by order of the King and Council, for their Creditors Information.

Which said Annual Payments, were by the said Letters Patents, to take place of all other Payments out of the said Revenue, except the necessary Sums for management of the said Revenue, and about 12000 l. per Ann. to the then Queen Consort, parcel of her Jointure, and 24000 l. per Ann. to the then Duke of York.

*Suit Hil. 1. W. and M. 1689.
Judgment Hil. 3. W. and M. 1691.*

Writs of Error, Easter Term, 4. W. and M. 1692.

*Lords Keepers Opinions, Mich. 8. W. 3. 1696.
Stat. 31. Edw. 3. Cap. 12.*

Note, Such Writs of Error against the King, could not be Sued forth until the Judgment should be Entered, nor without His Majesty's leave first obtained.

Judgment Entered, 15. Feb. 1697.

Report, Dat. 28 Feb. 1697.

HIS Majesty King *Charles* the Second, having borrowed about Thirteen hundred thousand Pounds of Sir *Robert Vyner*, several Goldsmiths and others, did for Satisfaction thereof, in *April*, 1677, Grant and Assure by Patents under the Great Seal of *England*, to each of them, their Heirs and Assigns, and for the benefit of their Creditors, an Yearly Rent or Sum for ever, upon the Hereditary Revenue of Excise, equal in Value to the Interest of their Debts, after the rate of Six Pounds *per Cent. per Annum*, which amounts in the whole, to near Eighty Thousand Pounds *per Ann.* with a Clause of Redemption upon His Majesty's paying the Principal and Arrears.

By Virtue whereof, the said Annual Sums were paid in the several Reigns of their late Majesties, King *Charles* the Second, and King *James* the Second, to *Lady-day*, 1683.

Since which, Application has been frequently made to the several proper Officers by the said Patents appointed for striking Tallies, and Payment thereof, who nevertheless have caused the same to be stopped, so that some of the Proprietors were enforced to Commence their Suits in the Courts of *Exchequer*, and after a full hearing on both sides, obtained Judgments thereupon.

But Writs of Error being brought against the said Judgments, all the rest of the Judges of *England* were convened, who upon solemn Debates and Arguments delivered their Opinions in Court before the then Lord Keeper, now Lord Chancellor, That the said Judgments were good in Law, and ought to be affirmed, for that the said Letters Patents were duly granted by the said King *Charles* the Second, who had power to grant the same, and which were for good and valuable Considerations; and that the said several Suits had been pursued in proper Methods for Remedy; except the Lord Chief Justice *Treby*, who differed as to the manner of the Remedy only.

Notwithstanding which, the then Lord Keeper was pleased to Reverse the said Judgments for Error, although the Statute (which appoints the Lord Chancellor Judge of the Court of Errors) directs, That if any Error be found, the Court should correct and amend the Rolls, and after send them into the *Exchequer* to make Execution as pertaineth.

Upon which the Prosecutors were by their Counsel advised to bring Writs of Error in the House of Peers against his Lordship's said Judgment (given contrary to the Opinion of so many of the Judges.)

But notwithstanding all due Application to the proper Officers to enter the said Judgments, the same could not be procured, but was delayed by the space of five Terms.

Soon after, Writs of Error were prepared returnable in Parliament, and Petitions to his Majesty presented at the Secretary of State's Office, praying leave to return the same, which Petition was referred to Mr. Attorney-General, who reported, That in regard the Question upon the said Proceedings was Matter of Law, upon which there had been variety of Opinions; he was humbly of Opinion it might be reasonable for His Majesty to grant Writs of Error to the Petitioners, according to their humble Request, all which he humbly submitted to His Majesty's Royal Wisdom. But no further Answer can yet be had for obtaining the said Writs, by which means the Prosecutors are incapacitated to bring the Cause into the House of Peers:

This being the Case of several thousands of the Subjects of *England* of all Qualities and Conditions, and the Value so considerable; and after so much Time and Money spent in Law, and Judgments in the Court of *Exchequer* given in their behalf, and so many of the Judges Opinion in their favour thereupon, and the Matter still depending, and intended to be brought into the House of Peers:

'Tis hoped the Honourable House of Commons will so far preserve the Property of the Subjects of this Realm, (as they have been accustomed) that whereas there is a Bill brought into the House for applying the Hereditary Excise to the Payment of the Civil List, that their Legal Rights may not be prejudiced by the said Bill.